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4 CALIFORNIA DEPARTMENT OF
MANAGED HEALTH CARE
5 Office of Enforcement
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6 Sacramento, CA 95814-7243
Telephone: (916) 323-0435
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8 Attorneys for Complainant

FILED
SEP 22 2004

DEPARTMENT OF MANAGED HEALTH CARE

By cha
Filing Clerk

10 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
11 OF THE STATE OF CALIFORNIA

13 IN THE MATTER OF:

14 AMERICAN ARC MANAGEMENT dba
15 FAMILY HEALTH

16 Respondent.

DMHC No.: 04-266

OAH No.:

**CEASE AND DESIST ORDER AND
NOTICE OF RIGHT TO HEARING**

(Health and Safety Code sections 1349,
1360, 1386, 1391 and 1395)

19 TO: AMERICAN ARC MANAGEMENT CORPORATION dba FAMILY HEALTH

20 The Director of the Department of Managed Health Care, by and through her
21 designee, Assistant Deputy Director Amy L. Dobberteen, after investigation, determines as
22 follows:

23 I.

24 INTRODUCTORY STATEMENT

25 1. California Health and Safety Code section 1349 requires certain entities
26 arranging for health-care services to first obtain a license from the California Department of
27 Managed Health Care. Respondent is acting as a health care service plan, arranging for the
28 provision of health care services, and accepting periodic payments. Accordingly, it is

1 operating as a health care service plan as defined in Health and Safety Code section
2 1345(f)(1), and required to obtain a license under the Knox-Keene Health Care Service Plan
3 Act of 1975 ("Knox-Keene Act"). Respondent's failure to obtain a license subjects it to the
4 enforcement powers of the Department of Managed Health Care.

5 2. Disregarding California law, the out-of-state entity set forth above is soliciting
6 low income, Spanish speaking California residents for purposes of selling health-care
7 services without a license, misleading California consumers and misrepresenting its product.
8 It purports to provide a discount on health care services, but no discounts are available
9 because providers have no arrangement with Respondent to give discounts, and because
10 discounts are only available to members who pay in full for doctor and hospitalization
11 services before or on the day they are rendered.

12 3. Therefore, the Department of Managed Health Care, by the Order below,
13 hereby directs Respondent to cease and desist from any further unauthorized, deceptive and
14 unlawful activity in the State of California.

15 II.

16 STATUTORY AUTHORITY

17 4. The Director of the Department of Managed Health Care is vested with the
18 responsibility to administer and enforce the Knox-Keene Health Care Service Plan Act of
19 1975 ("Knox-Keene Act", Health and Safety Code section 1340, *et seq.*) The intent and
20 purpose of the Knox-Keene Act is to promote the delivery and quality of health and medical
21 care to the people of California who enroll in a health care service plan by, among other
22 things: "Prosecuting malefactors who make fraudulent solicitation or who use deceptive
23 methods, misrepresentations, or practices, which are inimical to the general purpose of
24 enabling a rational choice for the consumer public." (Health and Safety Code sections 1341
25 and 1342(c).)

26 5. Health and Safety Code section 1345(f)(1) defines a health care service
27 plan to mean:
28

1 Any person who undertakes to arrange for the provision of
2 health care services to subscribers or enrollees or to reimburse
3 any part of the cost for those services, in return for a prepaid
or periodic charge paid by or on behalf of the subscribers or
enrollees.

4 6. The Legislature has plainly evidenced its intent as to the application of the
5 Knox-Keene Act in Health and Safety Code section 1399.5, which provides:

6 It is the intent of the Legislature that the provisions of this
7 chapter shall be applicable to any private or public entity or
8 political subdivision which, in return for a prepaid or periodic
9 charge paid by or on behalf of a subscriber or enrollee,
provides, administers or otherwise arranges for the provision
of health care services....

10 7. Any person conducting business as a health care service plan is required to
11 have a license under the Knox-Keene Act pursuant to Health and Safety Code section
12 1349, which provides:

13 It is unlawful for any person to engage in business as a plan in
14 this state or to receive advance or periodic consideration in
15 connection with a plan from or on behalf of persons in this
16 state unless such person has first secured from the director a
license, then in effect, as a plan or unless such person is
exempted by the provisions of Section 1343 or a rule adopted
thereunder.

17 8. Untrue and misleading advertising and solicitation is prohibited by Health and
18 Safety Code section 1360, which provides:

19 (a) No plan, solicitor, solicitor firm, or representative shall
20 use or permit the use of any advertising or solicitation which
21 is untrue or misleading, or any form of evidence of coverage
which is deceptive. For purposes of this article:

- 22 1. A written or printed statement or item of information
23 shall be deemed untrue if it does not conform to fact in
24 any respect which is, or may be significant to an
enrollee or subscriber, or potential enrollee or
subscriber in a plan.
- 25 2. A written or printed statement or item of information
26 shall be deemed misleading whether or not it may be
27 literally true, if, in the total context in which the
statement is made or such item of information is
28 communicated, such statement or item of information
may be understood by a person not possessing special
knowledge regarding health care coverage, as
indicating any benefit or advantage, or the absence of
any exclusion, limitation, or disadvantage of possible
significance to any enrollee, or potential enrollee or

1 subscriber, in a plan, and such is not the case.

2 ***

3 (b) No plan, or solicitor, or representative shall use or
4 permit the use of any verbal statement which is untrue,
5 misleading, or deceptive or make any representations about
6 coverage offered by the plan or its cost that does not conform
7 to fact. All verbal statements are to be held to the same
8 standards as those for printed matter provided in subdivision
9 (a).

10 9. Health and Safety Code section 1386(b)(7) specifically proscribes conduct that
11 constitutes fraud or dishonest dealing or unfair competition, as defined by Section 17200 of
12 the Business and Professions Code.

13 10. Health and Safety Code section 1395 further requires that:

14 ...Any price advertisement shall be exact, without the use of
15 such phrases as "as low as," "and up," "lowest prices" or
16 words or phrases of similar import. ... Price advertising shall
17 not be fraudulent, deceitful, or misleading, nor contain any
18 offers of discounts, premiums, gifts, or bait of similar nature.
19 In connection with price advertising, the price for each
20 product or service shall be clearly identifiable.

21 11. The Director is empowered to enforce compliance with this Act by Health and
22 Safety Code section 1391, subdivision (a)(1), which provides in relevant part:

23 The director may issue an order directing a plan, solicitor
24 firm, or any representative thereof, a solicitor, or any other
25 person to cease and desist from engaging in any act or
26 practice in violation of the provisions of this chapter, any rule
27 adopted pursuant to this chapter, or any order issued by the
28 director pursuant to this chapter.

29 III.

30 VIOLATIONS OF LAW

31 12. Respondent is undertaking to arrange for the provision of health-care services
32 to members, either directly or through arrangements with others, in return for a periodic
33 charge paid by the members, within the meaning of Health and Safety Code section
34 1345(f)(1). Additionally, Respondent is providing, administering or otherwise arranging for
35 the provision of health care services within the meaning of Health and Safety Code section
36 1399.5. Respondent therefore is engaging in business as a health care service plan in this

1 state and receiving advance and periodic consideration in connection with a plan from or on
2 behalf of persons in this state, without having first secured a license from the Director. This
3 conduct violates Health and Safety Code section 1349. (Exhibits A-G attached hereto)

4 13. Respondent's advertising and solicitation practices offer discounts from
5 doctors, dentists, hospitals, and pharmacies that are unavailable because it has no contracts
6 with providers to offer discounted prices. Additionally, Respondent's marketing of risk-free
7 cancellation policies involve representations which are untrue in violation of Health and
8 Safety Code sections 1360(a)(1) and (b). (Exhibits A, B, and C attached hereto)

9 14. Respondent's advertising and solicitation practices are misleading in violation
10 of section 1360(a)(2) and (b) by using language typically associated with insurance
11 coverage, and offering its health-care product in conjunction with insurance products.
12 (Exhibits A, B, and C attached hereto)

13 15. Respondent is engaging in conduct that constitutes fraud or dishonest dealing
14 or unfair competition, as defined by section 17200 of the Business and Professions Code, in
15 violation of Health and Safety Code section 1386(b)(7). (Exhibits A-G attached hereto)

16 16. Respondent is engaging in prohibited price advertising using terms such as "up
17 to," in fraudulent, deceitful, or misleading advertising of non-existent discounts and of
18 indefinitely extended limited-time offers in violation of Health and Safety Code section
19 1395. (Exhibits A, B, and C)

20 IV.

21 CEASE AND DESIST ORDER

22 Based on the foregoing, the Director finds that Respondent has violated Health and
23 Safety Code sections 1349; 1360, subdivisions (a)(1), (a)(2), and (b); 1386(b)(7) and 1395.

24 **THEREFORE**, pursuant to Health and Safety Code section 1391 of the Knox-Keene
25 Act:

26 ///

27 ///

28 ///

1 **IT IS HEREBY ORDERED:**

2 1. That Respondent, and any of its directors, officers, trustees, managers,
3 affiliates, agents, and all persons participating with them or acting in concert with them, shall
4 immediately **CEASE AND DESIST FROM:**

- 5 a. Operating in California without a Knox-Keene Act license.
6 b. Any further deceptive or misleading advertisements or solicitations to
7 California residents;
8 c. Any enrollment activities in California for health-care memberships,
9 including, but not limited to, medical, dental, hospitalization, and
10 pharmacy;
11 d. Taking, receiving, or forwarding any application for health-care
12 memberships from California residents;
13 e. Collecting or receiving, in full or in part, any payments for health-care
14 memberships from or on behalf of California residents;

15 2. Respondent shall disclose in any advertisement or solicitation that may
16 reasonably be viewed by residents of the State of California, including but not limited to any
17 Internet web page or advertisement, that its health care membership product is not available
18 in the State of California.
19

20 Dated: September 22, 2004

LUCINDA EHNES

Director
Department of Managed Health Care

21
22
23
24 By:

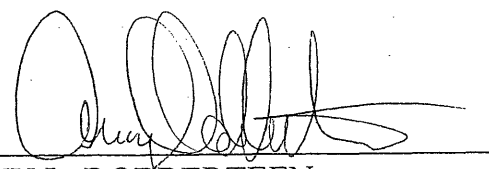
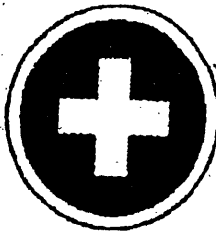

25 AMY L. DOBBERTEN
26 Assistant Deputy Director
27 Office of Enforcement
28 Department of Managed Health Care

EXHIBIT A

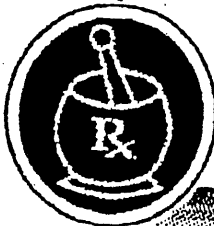
ATTENTION: Business Owners & Individuals



Medical



Dental



Rx

**Health Care
Entire Family**

\$59⁹⁵

Per Month.

ALL Pre-existing
conditions accepted!

NO limitations on usage!

YOU can not be singled
out for rate increases
or cancellations!

NO age restrictions!

Get Health Care that Includes:

- Maternity*
- Vision and Dental
- Accidental Injury (Emergency Room)
- PPO Hospital Network (over 3,500 hospitals)*
- PPO Physician's Network (over 600,000 doctors)
- Prescription Program (Walmart, Eckerds, etc.)
- Hearing Plan
- 24 Hr. Toll Free Health Hotline

**THIS RATE IS
GOOD THROUGH
FRIDAY ONLY!**

CALL US TODAY!

1-877-218-8500

IF YOU WANT YOUR NUMBER REMOVED FROM OUR DATABASE, CALL TOLL-FREE AT 800-390-0761.

EXHIBIT B

ATTENTION: Business Owners & Individuals

Health Care for the Entire Family



Medical

Dental

Rx

Our Healthcare Programs Include:

- Maternity
- Vision and Dental
- Accidental Injury (Emergency Room)
- PPO Hospital Network (over 3,500 hospitals)
- PPO Physician's Network (over 350,000 doctors)
- Prescription Program (Target, Eckerd's, etc.)
- Hearing Plan
- 24 Hr. Live Nurse Helpline
- 60 Day Satisfaction Guarantee
- \$25 FIRST USE Rebate
- \$250 Visa Give-Aways
- Personal Healthcare Advocate Program
- 24 Hr. Customer Service

As Low As
\$54⁰⁰
Per Month.

ALL Pre-existing conditions accepted!

NO limitations on usage!

YOU can not be singled out for rate increases or cancellations!

NO age restrictions!

Limited Time Offer Good Through Friday!
CALL US TODAY! 1-800-697-0984

Mon-Fri 8am-8pm, Sat 8am-12pm CST
 Copyright 2004 Your non insurance solution. Approval #PL22

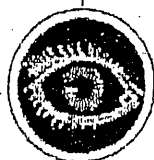
IF YOU RECEIVED THIS FAX IN ERROR AND WOULD LIKE TO HAVE YOUR NUMBER REMOVED FROM OUR DATABASE, CALL TOLL-FREE AT 800-658-8133

EXHIBIT C



Family For \$59⁹⁵
per month

- No Physical Required
- Everyone Is Accepted
- Pre-Existing Conditions OK



Get Health Care that Includes:

- Join Over 2,000,000 Members
- Vision and Dental
- Hearing
- Accidental Death/Injury
- 800,000 Doctor Network
- Pharmacies and Hospitals Network
- Air Ambulance
- Health Line
- On the job coverage
- No Pre-Admission required
- You *cannot* be singled out for rate increases or cancellation

Risk-Free Cancellation Policy!

CALL NOW TO ENROLL

1-800-640-1043

IF YOU RECEIVED THIS FAX IN ERROR AND WOULD LIKE TO HAVE YOUR NUMBER REMOVED FROM OUR DATABASE, CALL TOLL-FREE AT 800-766-0816.

EXHIBIT D

Family Health

Our Provider Locating Center recently contacted you on behalf of our Member listed below.
Our Member will Contact your office to schedule his/her appointment.

Please collect 70% of your usual and customary charges at the time of service and submit your
claims for reprocessing to:

Family Health
Attn: Claims
10333 Harwin Dr., Suite 225
Houston, TX 77036
Or by Fax to 713-270-1424, Phone 800-323-4057

Date: 5/6/2004

Member Information

Member ID: 989124621
Patient Name: BUONG, KIMBERLY
Contact Phone: 4086685729
Effective Date: 04/05/2004

Provider Information

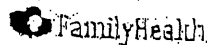
Specialty: FAMILY PRACTICE
Prov. Name: Ramos, Paulita R.
Contact Name: DANELLE
Address: 150 N. Jackson Ave
City: San Jose
State: CA
Provider's Affiliation: Integrated Health Plan/IHP
Phone: 4082721488

Primary Member:

BUONG, ROGER
1834 QUEEN ELIZABETH WY
SAN JOSE, CA 95132

Notes

ATTENTION DANELLE.



Providers, please reference all correspondence to:
Family Health, Inc., 10333 Harwin Dr., Suite 225,
Houston, Texas 77036, (713) 270-1424.
For a copy of the policy, please call the Provider's Office at (713) 270-1424.
Providers of Family Health services are not to be paid for services rendered until the member has been notified of the provider's bill.
Providers are to submit bills to the Provider's Office at (713) 270-1424.
Program is NOT INSURANCE.

EXHIBIT E

Family Health

Our Provider Locating Center recently contacted you on behalf of our Member listed below. Our Member will Contact your office to schedule his/her appointment. If you are a Napp or Family Care provider please charge patient according to your contract.

Please collect 70% of your usual and customary charges at the time of service and submit your claims for reprinting to:

Family Health
Attn: Claims
10333 Harwin Dr., Suite 225
Houston, TX 77036
Or by Fax to 713-270-1424, Phone 800-323-4057

Date: 7/26/2004

Member Information

Member ID: 989140841
Patient Name: PANCHAL, KRISHNA
Contact Phone: 4083634181
Effective Date: 06/21/2004

Primary Member:

PANCHAL, KOKILA
5576 SOUTHCREST WAY
SAN JOSE, CA 95123

Provider Information

Specialty: FAMILY PRACTICE
Prov. Name: Ramoa, Paulita R.
Contact Name: Roman
Address: 150 N. Jackson Ave
City: San Jose
State: CA
Provider's Affiliation: IHP/IHP
Phone: 4082721488

Notes

Please charge the patient accordingly to your contract with Integrated Health Plan

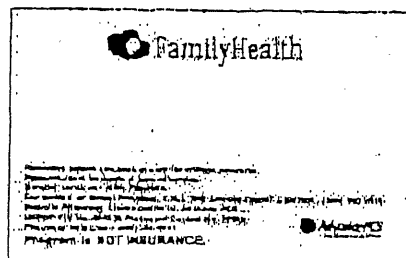


EXHIBIT F

Family Health

Our Provider Locating Center recently contacted you on behalf of our Member listed below. Our Member will Contact your office to schedule his/her appointment. If you are a Napp, Family Care, or an Integrated Health Plan provider please charge patient according to your contract. If you have any questions please contact us at (800) 323-4057 or mail claims to:

Family Health
Attn: Claims
10333 Harwin Dr., Suite 225
Houston, TX 77036
Or by Fax to 713-270-1424

Date: 8/19/04

Member Information

Member ID: 9891 46848
Patient Name: LE, TAN
Contact Phone: 4082596798
Effective Date: 08/05/2004

Primary Member:

LE, TAN
1002 IVY GLEN DR
SAN JOSE, CA 95133

Provider Information

Specialty: FAMILY PRACTICE
Prov. Name: Ramos, Paulita R.
Contact Name: Appointments
Address: 150 N. Jackson Ave #212
City: San Jose
State: CA
Provider's Affiliation: IHP/IHP
Phone: 4082721483

Notes:

Please charge contracted rate at time of service through IHP
IHP (Integrated Health Plan)

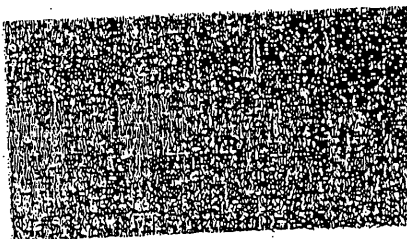


EXHIBIT G

Provider Request

Welcome to your Provider Request where you will be able to request a doctor yourself instead of calling the appointment line.

You will need to answer a few questions in order for us to locate the closest doctor to you. After you have submitted your request please visit this website to view your information in 1-2 business days. You will be able to print our referral letter that you can take with you to the doctor's office. You will also receive an email with all of this information.



Login

Member ID: * *

Phone #: * *
(#####)

Would you like to request a doctor or
view a pending request ? Please select
one



New Providers Request

View Providers Request